

REMARKS

Claims 1, 2 and 4-22 and 30-34 are now present in this application. Claims 1, 22, 30 and 32 are independent. Claims 1, 22, 30, and 32 have been amended. Reconsideration of this application, as amended, is respectfully requested.

Summary of Interview

Applicants thank Examiner Weddington for the courtesies extended at the personal interview which was conducted on October 20, 2004. The Interview Summary summarizes the main points discussed at the interview. Dependent claim 3 is being cancelled in order to avoid antecedent basis problems in light of the amendment to claim 1. No subject matter is surrendered as a result of the cancellation of claim 3. The remaining points discussed during the interview are discussed hereinbelow.

Election of Species Requirement

The Examiner has made the Election of Species Requirement final, and has withdrawn claims 4, 8-12, 14 and 18-21 from further consideration. Applicant has not canceled these non-elected claims since each of these claims depends, either directly or indirectly, from independent generic claim 1, which is believed to be allowable. Upon allowance of independent claim 1, Applicant respectfully requests examination and allowance of these withdrawn claims.

Priority Under 35 U.S.C. § 119

Applicants thank the Examiner for acknowledging Applicants' claim for foreign priority under 35 U.S.C. § 119, and receipt of the certified priority document.

Rejection Under 35 U.S.C. § 112, First and Second Paragraphs

Claims 1-3, 5, 6, 13, 15-17, 22 and 30-34 stand rejected under 35 U.S.C. § 112, first and second paragraphs. These rejections are respectfully traversed.

The rejection under 35 U.S.C. 112, first paragraph is based on the allegation that the claims are so broadly written as to encompass non-enabled subject matter. The rejection under 35 U.S.C. 112, second paragraph, is based on the allegation that the claims are indefinite. With regard to both of these rejections, the Examiner appears to be taking the position that it is unclear what is meant by the description that the inventive compounds increase the "systemic exposure of cells" to the pharmaceutically active compound.

In the last paragraph on page 2 of the outstanding Office Action, the Examiner indicates that the claims are enabled if limited to a method of improving the bioavailability of the pharmaceutically active drug.

It is submitted that the amendments to the claims address the rejections under 35 U.S.C. § 112.

Drawings

It is noted that this application has been filed with two sheets of formal drawings. However, the USPTO has not indicated if the

drawings are acceptable. In the next communication, the Examiner is requested to indicated whether the drawings are acceptable.

Claim for Priority to Earlier Applications

It has come to Applicants' attention that one of the two priority documents filed on March 7, 2002 is not the actual priority document, but instead the translation of the priority document. Please replace the English translation of the priority document Netherlands 1012481 dated June 30, 1999 in English with the correct Dutch language version of Netherlands 1012481. A copy of the correct priority document, Netherlands 1012481 is attached hereto. Applicants will attempt to obtain an original certified copy of Netherlands 1012481 and will file it in the PTO in due course. Please note that Netherlands 1012066 dated May 17, 1999 is correct as filed.

Information Disclosure Statement

An Information Disclosure Statement is being filed concurrently herewith. The reference cited in the Information Disclosure Statement has a publication date of December 1, 1999, which is after Applicants' two foreign priority applications. All of the pending claims in the present application are fully supported by Netherlands application 1012481, which was filed on June 30, 1999. In this regard, particular reference is made to the original claims and the disclosure at page 4, line 32 to page 5, line 3; page 5, lines 15-23; page 6, lines 15-18; page 6, lines 24-27; page 7, lines 23-26; page 8, lines 1-5; page 8, lines 32-33; page 9, lines 21-24; page 10, lines 20-24 and page 14, Example 2 of the English translation of Netherlands Application No.

1012481. However, please note that inhibitors XR 9051 and XR 9576 in claim 6 are not supported by Netherlands Application No. 1012481. These compounds obtained from Xenova were added to the disclosure in the PCT application. As such, Applicants submit that the newly cited reference is not prior art to the present application. The Examiner is respectfully requested to consider the reference submitted therewith and to return an initialed copy of the PTO-1449 in the next communication.

Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned at (703) 205-8000, in the Washington, D.C. area.

Prompt and favorable consideration of this Amendment is respectfully requested.

Applicants respectfully petition under the provisions of 37 C.F.R. § 1.136(a) and § 1.17 for a one month extension of time in which to respond to the Examiner's Office Action. The Extension of Time Fee in the amount of \$110.00 is attached hereto.

Application No. 09/988,285

Art Unit 1614

Response to Office Action dated June 24, 2004

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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Attachments